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In re Application of :  
Futa et al. :  
Application No. 10/591,846 :  
PCT No.: PCT/JP05/05136 :  
Int. Filing Date: 22 March 2005 : COMMUNICATION  
Priority Date: 31 March 2004 :  
Att. Docket No.: 2006\_1455A :  
For: Computer System, Computer :  
Program, And Addition Method :

This is in response to the declaration of the inventors filed on 05 September 2006, which is being treated under 37 CFR 1.42.

### **BACKGROUND**

This international application was filed on 22 March 2005, claimed an earliest priority date of 31 March 2004, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 20 October 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 30 September 2006. Applicants filed, *inter alia*, the basic national fee on 05 September 2006.

On 10 May 2007, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) to be 05 September 2006.

### **DISCUSSION**

Review of the declaration of the inventors filed on 05 September 2006 reveals that joint inventor Masato YAMAMICHI is indicated to be "deceased" and that Masami Yamamichi, Satomi Yamamichi and Keiko Yamamichi have signed in the capacity of "heir." 37 CFR 1.42 provides in part that

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the

legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

Further examination of the declaration filed on 05 September 2006 reveals that it identifies the citizenship of the deceased inventor and the citizenship, residence and postal address of each of the named heirs. It is noted that the last postal address and residential address of the deceased inventor have not been provided.

The declaration does not itself indicate whether the heirs who have signed are all of the heirs of the deceased inventor, nor is this indicated elsewhere in the image file wrapper for this application. In the absence of a clear indication that the declaration has been signed on behalf of the deceased inventor by all of the heirs (or by the deceased inventor's legal representative), it would not be appropriate to accept the declaration under 37 CFR 1.42.

Since the declaration has not been accepted, the Notice of Acceptance (Form PCT/DO/EO/903) mailed on 10 May 2007 was premature, and it is hereby **VACATED**.

### **CONCLUSION**

The declaration is **NOT ACCEPTED** under 37 CFR 1.42, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.



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